



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0104

Introduced 1/27/2011, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

225 ILCS 10/3.2 new	
225 ILCS 10/4	from Ch. 23, par. 2214
225 ILCS 10/5	from Ch. 23, par. 2215
225 ILCS 10/6	from Ch. 23, par. 2216
225 ILCS 10/7	from Ch. 23, par. 2217
225 ILCS 10/8	from Ch. 23, par. 2218
225 ILCS 10/8.1	from Ch. 23, par. 2218.1

Amends the Child Care Act of 1969. Provides that the Illinois Department of Children and Family Services shall charge a fee not to exceed \$500 for issuing or renewing a license on every child care facility, other than a foster home. Provides that the Department may fine a day care facility for a violation of the Act. Provides that all fees and fines collected by the Department under the Act shall be deposited into the DCFS Children's Services Fund and must be used to enhance services by the Department pursuant to the Act. Provides that the Department shall publish information on substantiated violations found in all day care facilities licensed under this Act. Requires that the Department prescribe and publish a schedule for the fees and fines for violations of day care centers under the Act. Adds as one of the grounds for discipline the failure to pay a renewal fee or fine owed to the Department under the Act. Makes other changes.

LRB097 02711 CEL 42730 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Child Care Act of 1969 is amended by
5 changing Sections 4, 5, 6, 7, 8, and 8.1 and by adding Section
6 3.2 as follows:

7 (225 ILCS 10/3.2 new)

8 Sec. 3.2. Licensing fees; fines; DCFS Children's Services
9 Fund.

10 (a) The Department shall charge a fee for issuing or
11 renewing a license on every child care facility, other than a
12 foster home. These fees shall be paid to the Department upon
13 the child care facility's application for licensure or renewal.
14 The Department shall adopt rules pursuant to the Illinois
15 Administrative Procedure Act pertaining to rate setting for
16 licensing fees. Any fee for licensure application or renewal
17 for a day care home, as defined in this Act, shall not exceed
18 \$500.

19 (b) The Department may assess a fine on day care centers
20 for a violation of this Act. The Department shall adopt rules
21 pursuant to the Illinois Administrative Procedure Act
22 pertaining to and setting the fines established under this Act.
23 No fine shall exceed \$500 per violation.

1 (c) All fees and fines collected by the Department under
2 this Act shall be deposited into the DCFS Children's Services
3 Fund and must be used to enhance services by the Department
4 pursuant to this Act.

5 (225 ILCS 10/4) (from Ch. 23, par. 2214)

6 Sec. 4. License requirement; application; notice.

7 (a) Any person, group of persons, or corporation who or
8 which receives children or arranges for care or placement of
9 one or more children unrelated to the operator must apply for a
10 license to operate one of the types of facilities defined in
11 Sections 2.05 through 2.19 and in Section 2.22 of this Act. Any
12 relative who receives a child or children for placement by the
13 Department on a full-time basis may apply for a license to
14 operate a foster family home as defined in Section 2.17 of this
15 Act.

16 (a-5) Any agency, person, group of persons, association,
17 organization, corporation, institution, center, or group
18 providing adoption services must be licensed by the Department
19 as a child welfare agency as defined in Section 2.08 of this
20 Act. "Providing adoption services" as used in this Act,
21 includes facilitating or engaging in adoption services.

22 (b) Application for a license to operate a child care
23 facility must be made to the Department in the manner and on
24 forms prescribed by it. An application to operate a foster
25 family home shall include, at a minimum: a completed written

1 form; written authorization by the applicant and all adult
2 members of the applicant's household to conduct a criminal
3 background investigation; medical evidence in the form of a
4 medical report, on forms prescribed by the Department, that the
5 applicant and all members of the household are free from
6 communicable diseases or physical and mental conditions that
7 affect their ability to provide care for the child or children;
8 the names and addresses of at least 3 persons not related to
9 the applicant who can attest to the applicant's moral
10 character; and fingerprints submitted by the applicant and all
11 adult members of the applicant's household.

12 (b-5) Application for a license to operate a child care
13 facility, other than a foster home, shall include an
14 application fee. The Department shall adopt rules and policies
15 pursuant to the Illinois Administrative Procedure Act to set a
16 fee schedule. Any fee for licensure application or renewal for
17 a day care home, as defined in this Act, shall not exceed \$500.

18 (c) The Department shall notify the public when a child
19 care institution, maternity center, or group home licensed by
20 the Department undergoes a change in (i) the range of care or
21 services offered at the facility, (ii) the age or type of
22 children served, or (iii) the area within the facility used by
23 children. The Department shall notify the public of the change
24 in a newspaper of general circulation in the county or
25 municipality in which the applicant's facility is or is
26 proposed to be located.

1 (d) If, upon examination of the facility and investigation
2 of persons responsible for care of children, the Department is
3 satisfied that the facility and responsible persons reasonably
4 meet standards prescribed for the type of facility for which
5 application is made, and has paid the applicable application
6 fee, then the Department ~~it~~ shall issue a license in proper
7 form, designating on that license the type of child care
8 facility and, except for a child welfare agency, the number of
9 children to be served at any one time.

10 (e) The Department shall not issue or renew the license of
11 any child welfare agency providing adoption services, unless
12 the agency (i) is officially recognized by the United States
13 Internal Revenue Service as a tax-exempt organization
14 described in Section 501(c)(3) of the Internal Revenue Code of
15 1986 (or any successor provision of federal tax law) and (ii)
16 is in compliance with all of the standards necessary to
17 maintain its status as an organization described in Section
18 501(c)(3) of the Internal Revenue Code of 1986 (or any
19 successor provision of federal tax law). The Department shall
20 grant a grace period of 24 months from the effective date of
21 this amendatory Act of the 94th General Assembly for existing
22 child welfare agencies providing adoption services to obtain
23 501(c)(3) status. The Department shall permit an existing child
24 welfare agency that converts from its current structure in
25 order to be recognized as a 501(c)(3) organization as required
26 by this Section to either retain its current license or

1 transfer its current license to a newly formed entity, if the
2 creation of a new entity is required in order to comply with
3 this Section, provided that the child welfare agency
4 demonstrates that it continues to meet all other licensing
5 requirements and that the principal officers and directors and
6 programs of the converted child welfare agency or newly
7 organized child welfare agency are substantially the same as
8 the original. The Department shall have the sole discretion to
9 grant a one year extension to any agency unable to obtain
10 501(c)(3) status within the timeframe specified in this
11 subsection (e), provided that such agency has filed an
12 application for 501(c)(3) status with the Internal Revenue
13 Service within the 2-year timeframe specified in this
14 subsection (e).

15 (Source: P.A. 94-586, eff. 8-15-05.)

16 (225 ILCS 10/5) (from Ch. 23, par. 2215)

17 Sec. 5. (a) In respect to child care institutions,
18 maternity centers, child welfare agencies, day care centers,
19 day care agencies, and group homes, the Department, upon
20 receiving application filed in proper order, shall examine the
21 facilities and persons responsible for care of children
22 therein.

23 (b) In respect to foster family and day care homes,
24 applications may be filed on behalf of such homes by a licensed
25 child welfare agency, by a State agency authorized to place

1 children in foster care or by out-of-State agencies approved by
2 the Department to place children in this State. In respect to
3 day care homes, applications may be filed on behalf of such
4 homes by a licensed day care agency or licensed child welfare
5 agency. In applying for license in behalf of a home in which
6 children are placed by and remain under supervision of the
7 applicant agency, such agency shall certify that the home and
8 persons responsible for care of unrelated children therein, or
9 the home and relatives responsible for the care of related
10 children therein, were found to be in reasonable compliance
11 with standards prescribed by the Department for the type of
12 care indicated.

13 (c) The Department shall not allow any person to examine
14 facilities under a provision of this Act who has not passed an
15 examination demonstrating that such person is familiar with
16 this Act and with the appropriate standards and regulations of
17 the Department.

18 (d) With the exception of day care centers, day care homes,
19 and group day care homes, licenses shall be issued in such form
20 and manner as prescribed by the Department and are valid for 4
21 years from the date issued, unless revoked by the Department or
22 voluntarily surrendered by the licensee. Licenses issued for
23 day care centers, day care homes, and group day care homes
24 shall be valid for 3 years from the date issued, unless revoked
25 by the Department or voluntarily surrendered by the licensee.
26 When a licensee has made timely and sufficient application for

1 the renewal of a license or a new license, including payment of
2 the required fee, with reference to any activity of a
3 continuing nature, the existing license shall continue in full
4 force and effect for up to 30 days until the final agency
5 decision on the application has been made. The Department may
6 further extend the period in which such decision must be made
7 in individual cases for up to 30 days, but such extensions
8 shall be only upon good cause shown. If for any reason the
9 renewal process is not completed within 6 months of the
10 submission of the renewal application, then the license expires
11 and under no circumstances shall an additional extension be
12 granted by the Department.

13 (e) The Department may issue one 6-month permit to a newly
14 established facility for child care to allow that facility
15 reasonable time to become eligible for a full license. If the
16 facility for child care is a foster family home, or day care
17 home the Department may issue one 2-month permit only.

18 (f) The Department may issue an emergency permit to a child
19 care facility taking in children as a result of the temporary
20 closure for more than 2 weeks of a licensed child care facility
21 due to a natural disaster. An emergency permit under this
22 subsection shall be issued to a facility only if the persons
23 providing child care services at the facility were employees of
24 the temporarily closed day care center at the time it was
25 closed. No investigation of an employee of a child care
26 facility receiving an emergency permit under this subsection

1 shall be required if that employee has previously been
2 investigated at another child care facility. No emergency
3 permit issued under this subsection shall be valid for more
4 than 90 days after the date of issuance.

5 (g) During the hours of operation of any licensed child
6 care facility, authorized representatives of the Department
7 may without notice visit the facility for the purpose of
8 determining its continuing compliance with this Act or
9 regulations adopted pursuant thereto.

10 (h) Day care centers, day care homes, and group day care
11 homes shall be monitored at least annually by a licensing
12 representative from the Department or the agency that
13 recommended licensure.

14 (Source: P.A. 89-21, eff. 7-1-95; 89-263, eff. 8-10-95; 89-626,
15 eff. 8-9-96.)

16 (225 ILCS 10/6) (from Ch. 23, par. 2216)

17 Sec. 6. (a) A licensed facility operating as a "child care
18 institution", "maternity center", "child welfare agency", "day
19 care agency" or "day care center" must apply for renewal of its
20 license held, the application to be made to the Department on
21 forms prescribed by it. The Department shall charge a fee for
22 the renewal of a license as required in Section 3.2 of this
23 Act.

24 (b) The Department, a duly licensed child welfare agency or
25 a suitable agency or person designated by the Department as its

1 agent to do so, must re-examine every child care facility for
2 renewal of license, including in that process the examination
3 of the premises and records of the facility as the Department
4 considers necessary to determine that minimum standards for
5 licensing continue to be met, and random surveys of parents or
6 legal guardians who are consumers of such facilities' services
7 to assess the quality of care at such facilities. In the case
8 of foster family homes, or day care homes under the supervision
9 of or otherwise required to be licensed by the Department, or
10 under supervision of a licensed child welfare agency or day
11 care agency, the examination shall be made by the Department,
12 or agency supervising such homes. If the Department is
13 satisfied that the facility continues to maintain minimum
14 standards which it prescribes and publishes, it shall renew the
15 license to operate the facility.

16 (c) If a child care facility's license is revoked, or if
17 the Department refuses to renew a facility's license, the
18 facility may not reapply for a license before the expiration of
19 12 months following the Department's action; provided,
20 however, that the denial of a reapplication for a license
21 pursuant to this subsection must be supported by evidence that
22 the prior revocation renders the applicant unqualified or
23 incapable of satisfying the standards and rules promulgated by
24 the Department pursuant to this Act or maintaining a facility
25 which adheres to such standards and rules.

26 (Source: P.A. 86-554.)

1 (225 ILCS 10/7) (from Ch. 23, par. 2217)

2 Sec. 7. (a) The Department must prescribe and publish
3 minimum standards for licensing that apply to the various types
4 of facilities for child care defined in this Act and that are
5 equally applicable to like institutions under the control of
6 the Department and to foster family homes used by and under the
7 direct supervision of the Department. The Department shall seek
8 the advice and assistance of persons representative of the
9 various types of child care facilities in establishing such
10 standards. The standards prescribed and published under this
11 Act take effect as provided in the Illinois Administrative
12 Procedure Act, and are restricted to regulations pertaining to
13 the following matters and to any rules and regulations required
14 or permitted by any other Section of this Act:

15 (1) The operation and conduct of the facility and
16 responsibility it assumes for child care;

17 (2) The character, suitability and qualifications of
18 the applicant and other persons directly responsible for
19 the care and welfare of children served. All child day care
20 center licensees and employees who are required to report
21 child abuse or neglect under the Abused and Neglected Child
22 Reporting Act shall be required to attend training on
23 recognizing child abuse and neglect, as prescribed by
24 Department rules;

25 (3) The general financial ability and competence of the

1 applicant to provide necessary care for children and to
2 maintain prescribed standards;

3 (4) The number of individuals or staff required to
4 insure adequate supervision and care of the children
5 received. The standards shall provide that each child care
6 institution, maternity center, day care center, group
7 home, day care home, and group day care home shall have on
8 its premises during its hours of operation at least one
9 staff member certified in first aid, in the Heimlich
10 maneuver and in cardiopulmonary resuscitation by the
11 American Red Cross or other organization approved by rule
12 of the Department. Child welfare agencies shall not be
13 subject to such a staffing requirement. The Department may
14 offer, or arrange for the offering, on a periodic basis in
15 each community in this State in cooperation with the
16 American Red Cross, the American Heart Association or other
17 appropriate organization, voluntary programs to train
18 operators of foster family homes and day care homes in
19 first aid and cardiopulmonary resuscitation;

20 (5) The appropriateness, safety, cleanliness and
21 general adequacy of the premises, including maintenance of
22 adequate fire prevention and health standards conforming
23 to State laws and municipal codes to provide for the
24 physical comfort, care and well-being of children
25 received;

26 (6) Provisions for food, clothing, educational

1 opportunities, program, equipment and individual supplies
2 to assure the healthy physical, mental and spiritual
3 development of children served;

4 (7) Provisions to safeguard the legal rights of
5 children served;

6 (8) Maintenance of records pertaining to the
7 admission, progress, health and discharge of children,
8 including, for day care centers and day care homes, records
9 indicating each child has been immunized as required by
10 State regulations. The Department shall require proof that
11 children enrolled in a facility have been immunized against
12 Haemophilus Influenzae B (HIB);

13 (9) Filing of reports with the Department;

14 (10) Discipline of children;

15 (11) Protection and fostering of the particular
16 religious faith of the children served;

17 (12) Provisions prohibiting firearms on day care
18 center premises except in the possession of peace officers;

19 (13) Provisions prohibiting handguns on day care home
20 premises except in the possession of peace officers or
21 other adults who must possess a handgun as a condition of
22 employment and who reside on the premises of a day care
23 home;

24 (14) Provisions requiring that any firearm permitted
25 on day care home premises, except handguns in the
26 possession of peace officers, shall be kept in a

1 disassembled state, without ammunition, in locked storage,
2 inaccessible to children and that ammunition permitted on
3 day care home premises shall be kept in locked storage
4 separate from that of disassembled firearms, inaccessible
5 to children;

6 (15) Provisions requiring notification of parents or
7 guardians enrolling children at a day care home of the
8 presence in the day care home of any firearms and
9 ammunition and of the arrangements for the separate, locked
10 storage of such firearms and ammunition.

11 (a-5) The Department must prescribe and publish schedules
12 for licensure application and licensing renewal fees that apply
13 to the various types of child care facilities, other than
14 foster homes. The fee and fine schedules prescribed and
15 published under this Act take effect as provided in the
16 Illinois Administrative Procedure Act.

17 (a-10) The Department shall publish information on
18 substantiated violations found in all day care facilities
19 licensed under this Act. The Department must prescribe and
20 publish schedules of fines that apply to day care centers for
21 violations of this Act. The fine schedules prescribed and
22 published under this Act take effect as provided in the
23 Illinois Administrative Procedure Act.

24 (b) If, in a facility for general child care, there are
25 children diagnosed as mentally ill, mentally retarded or
26 physically handicapped, who are determined to be in need of

1 special mental treatment or of nursing care, or both mental
2 treatment and nursing care, the Department shall seek the
3 advice and recommendation of the Department of Human Services,
4 the Department of Public Health, or both Departments regarding
5 the residential treatment and nursing care provided by the
6 institution.

7 (c) The Department shall investigate any person applying to
8 be licensed as a foster parent to determine whether there is
9 any evidence of current drug or alcohol abuse in the
10 prospective foster family. The Department shall not license a
11 person as a foster parent if drug or alcohol abuse has been
12 identified in the foster family or if a reasonable suspicion of
13 such abuse exists, except that the Department may grant a
14 foster parent license to an applicant identified with an
15 alcohol or drug problem if the applicant has successfully
16 participated in an alcohol or drug treatment program, self-help
17 group, or other suitable activities.

18 (d) The Department, in applying standards prescribed and
19 published, as herein provided, shall offer consultation
20 through employed staff or other qualified persons to assist
21 applicants and licensees in meeting and maintaining minimum
22 requirements for a license and to help them otherwise to
23 achieve programs of excellence related to the care of children
24 served. Such consultation shall include providing information
25 concerning education and training in early childhood
26 development to providers of day care home services. The

1 Department may provide or arrange for such education and
2 training for those providers who request such assistance.

3 (e) The Department shall distribute copies of licensing
4 standards to all licensees and applicants for a license. Each
5 licensee or holder of a permit shall distribute copies of the
6 appropriate licensing standards and any other information
7 required by the Department to child care facilities under its
8 supervision. Each licensee or holder of a permit shall maintain
9 appropriate documentation of the distribution of the
10 standards. Such documentation shall be part of the records of
11 the facility and subject to inspection by authorized
12 representatives of the Department.

13 (f) The Department shall prepare summaries of day care
14 licensing standards. Each licensee or holder of a permit for a
15 day care facility shall distribute a copy of the appropriate
16 summary and any other information required by the Department,
17 to the legal guardian of each child cared for in that facility
18 at the time when the child is enrolled or initially placed in
19 the facility. The licensee or holder of a permit for a day care
20 facility shall secure appropriate documentation of the
21 distribution of the summary and brochure. Such documentation
22 shall be a part of the records of the facility and subject to
23 inspection by an authorized representative of the Department.

24 (g) The Department shall distribute to each licensee and
25 holder of a permit copies of the licensing or permit standards
26 applicable to such person's facility. Each licensee or holder

1 of a permit shall make available by posting at all times in a
2 common or otherwise accessible area a complete and current set
3 of licensing standards in order that all employees of the
4 facility may have unrestricted access to such standards. All
5 employees of the facility shall have reviewed the standards and
6 any subsequent changes. Each licensee or holder of a permit
7 shall maintain appropriate documentation of the current review
8 of licensing standards by all employees. Such records shall be
9 part of the records of the facility and subject to inspection
10 by authorized representatives of the Department.

11 (h) Any standards involving physical examinations,
12 immunization, or medical treatment shall include appropriate
13 exemptions for children whose parents object thereto on the
14 grounds that they conflict with the tenets and practices of a
15 recognized church or religious organization, of which the
16 parent is an adherent or member, and for children who should
17 not be subjected to immunization for clinical reasons.

18 (i) The Department, in cooperation with the Department of
19 Public Health, shall work to increase immunization awareness
20 and participation among parents of children enrolled in day
21 care centers and day care homes by publishing on the
22 Department's website information about the benefits of annual
23 immunization against influenza for children 6 months of age to
24 5 years of age. The Department shall work with day care centers
25 and day care homes licensed under this Act to ensure that the
26 information is annually distributed to parents in August or

1 September.

2 (Source: P.A. 96-391, eff. 8-13-09.)

3 (225 ILCS 10/8) (from Ch. 23, par. 2218)

4 Sec. 8. The Department may revoke or refuse to renew the
5 license of any child care facility or child welfare agency or
6 refuse to issue full license to the holder of a permit should
7 the licensee or holder of a permit:

8 (1) fail to maintain standards prescribed and
9 published by the Department;

10 (2) violate any of the provisions of the license
11 issued;

12 (2.3) fail to pay a license renewal fee;

13 (2.5) fail to pay a fine owed to the Department;

14 (3) furnish or make any misleading or any false
15 statement or report to the Department;

16 (4) refuse to submit to the Department any reports or
17 refuse to make available to the Department any records
18 required by the Department in making investigation of the
19 facility for licensing purposes;

20 (5) fail or refuse to submit to an investigation by the
21 Department;

22 (6) fail or refuse to admit authorized representatives
23 of the Department at any reasonable time for the purpose of
24 investigation;

25 (7) fail to provide, maintain, equip and keep in safe

1 and sanitary condition premises established or used for
2 child care as required under standards prescribed by the
3 Department, or as otherwise required by any law, regulation
4 or ordinance applicable to the location of such facility;

5 (8) refuse to display its license or permit;

6 (9) be the subject of an indicated report under Section
7 3 of the Abused and Neglected Child Reporting Act or fail
8 to discharge or sever affiliation with the child care
9 facility of an employee or volunteer at the facility with
10 direct contact with children who is the subject of an
11 indicated report under Section 3 of that Act;

12 (10) fail to comply with the provisions of Section 7.1;

13 (11) fail to exercise reasonable care in the hiring,
14 training and supervision of facility personnel;

15 (12) fail to report suspected abuse or neglect of
16 children within the facility, as required by the Abused and
17 Neglected Child Reporting Act;

18 (12.5) fail to comply with subsection (c-5) of Section
19 7.4;

20 (13) fail to comply with Section 5.1 or 5.2 of this
21 Act; or

22 (14) be identified in an investigation by the
23 Department as an addict or alcoholic, as defined in the
24 Alcoholism and Other Drug Abuse and Dependency Act, or be a
25 person whom the Department knows has abused alcohol or
26 drugs, and has not successfully participated in treatment,

1 self-help groups or other suitable activities, and the
2 Department determines that because of such abuse the
3 licensee, holder of the permit, or any other person
4 directly responsible for the care and welfare of the
5 children served, does not comply with standards relating to
6 character, suitability or other qualifications established
7 under Section 7 of this Act.

8 (Source: P.A. 94-586, eff. 8-15-05; 94-1010, eff. 10-1-06.)

9 (225 ILCS 10/8.1) (from Ch. 23, par. 2218.1)

10 Sec. 8.1. The Department shall revoke or refuse to renew
11 the license of any child care facility or refuse to issue a
12 full license to the holder of a permit should the licensee or
13 holder of a permit:

14 (1) fail to correct any condition which jeopardizes the
15 health, safety, morals, or welfare of children served by the
16 facility;

17 (2) fail to correct any condition or occurrence relating to
18 the operation or maintenance of the facility comprising a
19 violation under Section 8 of this Act; ~~or~~

20 (3) fail to maintain financial resources adequate for the
21 satisfactory care of children served in regard to upkeep of
22 premises, and provisions for personal care, medical services,
23 clothing, education and other essentials in the proper care,
24 rearing and training of children;~~;~~

25 (4) fail to pay a license renewal fee; or

1 (5) fail to pay a fine owed to the Department.

2 (Source: P.A. 83-1362.)